

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

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Title 5, California Code of Regulations

Division 1

CalWORKs Child Care Programs

Add Chapter 19.5. to read:

**Chapter 19.5. CalWORKs and Child Care and Development Programs**

**Subchapter 1. Definitions**

**Article 1. General Provisions**

**§ 18400. Definitions.**

As used in this Chapter:

(a) "CalWORKs cash aid recipient" means a minor teen parent or adult who receives cash aid from the county welfare department for the CalWORKs or Cal-Learn program.

(b) "Child care provider" means an adult or agency that provides child care services.

(c) "Contractor" means a public or private non-profit agency that has a contract with the California Department of Education for the provision of CalWORKs Stage 2 and/or Stage 3 child care services.

(d) "Diversion services" means one-time assistance services provided by the county welfare department, either in cash or in non-cash services, to an otherwise CalWORKs eligible family, when the county welfare department determines that such assistance will help the family avoid becoming a CalWORKs cash aid recipient.

(e) "Family size" means the number of adults and children related by blood, marriage, or adoption that comprise the household in which the child is living.

(1) When an adult living in the household is neither the parent of the child nor the spouse of

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

1 the parent, the adult and the adult's children if any, shall be excluded from the calculation of  
2 family size.

3 (2) When a child is living with adult(s) other than a natural or adoptive parent, the child  
4 shall be considered a family of one. In these cases, a need criterion as specified in Section  
5 18406(b) or (c) or 18421(b) or (c) must be met by the caretaker of the child.

6 (f) "Former CalWORKs cash aid recipient" means an adult or minor teen parent who has  
7 previously received and is no longer receiving cash aid in the CalWORKs or Cal-Learn program  
8 because of, but not limited to, earnings, other income, or a sanction of the adult imposed by the  
9 county welfare department.

10 (g) "Incapacity" means the incapacity of a parent that significantly limits the parent's ability  
11 to provide normal care for the child because of a substantiated medical or psychiatric special  
12 need that is verified by a legally qualified professional.

13 (h) "Legally qualified professional" means a person who is licensed under the applicable  
14 laws and regulations of the State of California to perform medical, health, or social services for  
15 the general public.

16 (i) "Licensed provider" means an individual or organization that has obtained a child care  
17 license, as specified in Title 22, California Code of Regulations, Section 101156.

18 (j) "Maximum payment rate" means the maximum payment that may be paid to a provider  
19 and that is no more than the lower of the provider's rate for unsubsidized children or 1.5 standard  
20 deviations above the mean cost of care for the region where the care is provided.

21 (k) "Notice of action, application for services" means a written statement of specific  
22 information issued by the contractor that informs the applicant of the contractor's decision to

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

1 approve or deny child care services.

2 (l) "Notice of action, recipient of services" means a written statement of specific information  
3 issued by the contractor informing the family receiving child care services that a change has been  
4 made to their service agreement. These changes may include, but are not limited to, need and  
5 eligibility requirements that are no longer being met, fees that have not been paid, or the  
6 proposed modification of the fee or amount of services provided by the contractor.

7 (m) "Recertification" means a formal process to collect information and documentation to  
8 determine that the family continues to meet the eligibility criteria for CalWORKs child care.  
9 The adult must certify the information as accurate with a signature.

10 (n) "Stage 1" means the first stage of CalWORKs child care services. Stage 1 child care  
11 services are administered by the California Department of Social Services through county  
12 welfare departments pursuant to Education Code section 8351. Stage 1 child care begins when  
13 authorized by the county welfare department.

14 (o) "Stage 2" means the second stage of CalWORKs child care services. Stage 2 child care  
15 services are administered by the California Department of Education through contracts with  
16 alternative payment program providers pursuant to Education Code section 8353. Stage 2 child  
17 care begins when the county welfare department determines that a CalWORKs family is stable  
18 and transfers the family to a Stage 2 child care contractor for child care services, or a family  
19 applies and is found eligible for Stage 2 services.

20 (p) "Stage 3" means the third stage of CalWORKs child care services. Stage 3 child care  
21 services are administered by the California Department of Education through contracts with  
22 alternative payment program providers pursuant to Education Code section 8354. Stage 3 child

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

care begins when a CalWORKs family receiving Stage 1 or Stage 2 child care services has fully utilized the family's 24 months of eligibility to Stage 1 and Stage 2 child care services following the date the adult stopped receiving cash assistance.

(q) "State median income" means the most recent median income for California families as determined by the California Department of Finance.

(r) "Time out" means that a family receiving CalWORKs Stage 1 or Stage 2 child care services becomes ineligible for Stage 1 or Stage 2 because the adult has been off cash aid for 24 months.

(s) "Welfare-to-work activity" means a county welfare department approved activity, including but not limited to, employment, job search, job training, educational training, or participating as a volunteer in a job-related activity.

Note: Authority cited: Sections 8203, 8261, 8263, and 8269, Education Code. Reference: Sections 8359.1, Education Code.

## **Subchapter 2. CalWORKs Stage 2 Child Care Program**

### **Article 1. General Provisions**

#### **§ 18405. Scope of Subchapter.**

(a) The provisions contained in this subchapter shall only apply to contractors authorized to establish, maintain, or operate alternative payment programs for CalWORKs Stage 2 child care programs as defined in Education Code section 8353.

(b) Except as otherwise provided in this subchapter, contractors funded to establish, maintain, or operate alternative payment programs for CalWORKs Stage 2 child care programs shall also comply with the regulations contained in Chapter 19, Subchapter 1 (commencing with

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

Section 17906), Chapter 19, Subchapter 2 (commencing with Section 18012, except for Section 18017 if child care is paid with Federal funds), and Chapter 19, Subchapter 15 (commencing with Section 18300).

(c) CalWORKs Stage 2 child care services may begin when child care is available through a local Stage 2 program and one of the following occurs:

(1) The county welfare department determines that the adult's work or work activity is stable;

(2) The adult is transitioning off CalWORKs cash aid; or

(3) A family applies and is found eligible for CalWORKs Stage 2 services.

(d) Contractors administering Stage 2 programs in counties where there are multiple contractors shall coordinate services and cooperate to ensure all eligible families receive and continue to receive services. Contractors may coordinate across county boundaries so that eligible families living in the county, employed in the county, or receiving child care in the county receive and continue to receive such services.

Note: Authority cited: Sections 8261, 8262, and 8269, Education Code. Reference: Section 8353, Education Code.

**Article 2. Requirements and Procedures for Receiving CalWORKs Stage 2 Services**

**§ 18406. Family Eligibility.**

(a) A family is eligible to receive CalWORKs Stage 2 child care services if all of the following conditions are met:

(1) The family is and remains income eligible. A family is income eligible if the family's adjusted monthly income based upon the family size is at or below 75% of the state median income. Adjusted monthly income is the total countable income received by members of the

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

1 family included in the family size determination minus verified child support payments paid by  
2 the parent whose child is receiving child care services. Except for child support payments paid  
3 by the parent, monthly income shall not be adjusted because of voluntary or involuntary  
4 deductions.

5 (A) When income fluctuations occur, the adjusted income shall be computed by averaging the  
6 total adjusted income received during the previous 12 months.

7 (B) For families applying for Stage 2 child care pursuant to Section 18409.5, the 12-month  
8 period shall be the 12 months immediately preceding the month in which the application is  
9 signed.

10 (C) For families that transfer from either Stage 1 or another Stage 2 contractor, the 12-month  
11 period shall be the 12 months immediately preceding the transfer.

12 (D) For all other families, the 12-month period shall be the 12 months immediately preceding  
13 the month of recertification.

14 (E) Total countable income does not include the following:

15 (i) Earnings of a child under the age of 18 years;

16 (ii) Loans, grants, and scholarships obtained under conditions that preclude their use for  
17 current living costs;

18 (iii) Grants or loans to students for educational purposes made or insured by a state or federal  
19 agency;

20 (iv) Allowances received for uniforms or other work required clothing, food, or shelter;

21 (v) Income that is used for business expenses for self-employed family members; or

22 (vi) The income of a recipient of federal supplemental security income and state supplemental

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

- 1 program (SSI/SSP) benefits;
- 2 (2) The adult or minor teen parent is responsible for the care of the child needing child care;
- 3 and
- 4 (3) The adult or minor teen parent is:
- 5 (A) A CalWORKs cash aid recipient;
- 6 (B) A former CalWORKs cash aid recipient who received such cash aid within the last 24
- 7 months; or
- 8 (C) Determined eligible for diversion services by the county welfare department.
- 9 (b) Current CalWORKs cash aid recipients must be participating in a county welfare
- 10 department CalWORKs approved welfare-to-work activity or be employed.
- 11 (c) If child care is reimbursed with state funds, the parent(s) and any other adult whose
- 12 income is counted towards Stage 2 eligibility must each meet one of the following requirements:
- 13 (1) Be employed. If the parent(s) works in the home, the nature of the work must preclude
- 14 the supervision of the parent's children;
- 15 (2) Be seeking employment, but not to exceed 60 working days in the fiscal year;
- 16 (3) Be participating in a job training and education program leading directly to a recognized
- 17 trade, paraprofession, or profession;
- 18 (4) Be participating in job retention services as approved by the county welfare department;
- 19 or
- 20 (5) Be incapacitated.
- 21 (d) If child care is reimbursed with federal funds:
- 22 (1) The parent must meet one of the following requirements:

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

1 (A) Be employed. If the parent works in the home, the nature of the work must preclude the  
2 supervision of the parent's children;

3 (B) Be seeking employment, but not to exceed sixty working days in the fiscal year;

4 (C) Be participating in a job training and education program leading directly to a recognized  
5 trade, paraprofession, or profession; or

6 (D) Be participating in job retention services as approved by the county welfare department.

7 (2) Any other adult whose income is counted towards Stage 2 eligibility must meet one of the  
8 requirements contained in Subsection (d)(1) or be incapacitated.

9 Note: Authority cited: Section 8263, Education Code. Reference: Section 8350.5, Education  
10 Code; and Section 11323.2, Welfare and Institutions Code.

11 **§ 18407. Child Eligibility.**

12 (a) A child living in the household of the eligible family pursuant to Section 18406 may  
13 receive CalWORKs Stage 2 child care services if she/he is:

14 (1) A son or daughter of the eligible family;

15 (2) Receiving foster care benefits, federal Supplemental Security Income (SSI), or State  
16 Supplemental Program (SSP) benefits; or

17 (3) The responsibility of the adult to support and for whom the lack of child care would result  
18 in the adult not being able to work or participate in a work activity.

19 (b) If child care is being reimbursed with state funds, the child must:

20 (1) Be under 14 years of age; or

21 (2) Be under 22 years of age if the child has exceptional needs pursuant to Education Code  
22 section 8208(l) and is physically or mentally incapable of caring for him/herself as determined



CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

1 by a legally qualified professional.

2 (c) If child care is being reimbursed with federal funds, the child must:

3 (1) Be under 13 years of age; or

4 (2) Be under 19 years of age if the child is physically or mentally incapable of caring for  
5 him/herself as determined by a legally qualified professional.

6 (d) When a child's residence alternates between the homes of separated or divorced parents,  
7 eligibility, need, and fees should be determined separately for each household in which the child  
8 is residing during the time child care services are needed.

9 Note: Authority cited: Section 8263, Education Code. Reference: Sections 8250, 8350.5, and  
10 8353, Education Code; and Section 11323.2, Welfare and Institutions Code.

11 **§ 18408. Eligibility Duration.**

12 (a) Notwithstanding Section 18406 (a) (1), families receiving CalWORKs cash aid are  
13 categorically eligible pursuant to Education Code section 8350.5 to receive CalWORKs Stage 2  
14 child care when:

15 (1) the family continues to meet the need eligibility criterion pursuant to Section 18406(b);  
16 and

17 (2) the requirements of Section 18084 regarding income reporting are met, in order to  
18 determine the need to assess parent fees pursuant to Section 18109; and

19 (3) the requirements of Chapter 19, Article 5 (commencing with Section 18108) regarding  
20 parent fees are met.

21 (b) A contractor's policies regarding family eligibility, except as provided in Section  
22 18411(d), shall not supercede the categorical eligibility of a family receiving CalWORKs cash

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

1 aid.

2 (c) When such a categorically eligible family would otherwise have their child care  
3 terminated due to the family's violation of a child care contractor's policy:

4 (1) The contractor shall notify the county welfare department of the actions of the family that  
5 violated the contractor's policy in order to determine what action(s) may be taken.

6 (2) The contractor may take additional steps to remedy the situation that include but are not  
7 limited to:

8 (A) Developing a jointly agreed upon plan with the county welfare department for specific  
9 services to be provided to the family by the county welfare department.

10 (B) Jointly determining with the county welfare department whether the family would better  
11 be served in CalWORKs Stage 1.

12 (d) A former CalWORKs cash aid recipient meeting the requirements of Sections 18406 and  
13 18407 is eligible to receive child care services in Stage 1 and/or Stage 2 for 24 months after the  
14 adult is no longer receiving CalWORKs cash aid. The 24-month time limit begins the first day  
15 of the month immediately following the month the adult is no longer receiving CalWORKs cash  
16 aid.

17 (e) A family receiving diversion services meeting the requirements of Sections 18406 and  
18 18407 is eligible to receive child care services in Stage 2 for 24 months. The 24-month time  
19 limit begins the first day of the month that the family is determined eligible for diversion  
20 services.

21 (f) When a former CalWORKs cash aid recipient again becomes eligible for and receives  
22 CalWORKs cash aid, and then is terminated from CalWORKs cash aid, the family is eligible for

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

another 24 months of Stage 1 or Stage 2 child care, or a combination of the two. The 24-month period begins on the first day of the month immediately following the month the adult is no longer receiving CalWORKs cash aid.

Note: Authority cited: Section 8263, Education Code. Reference: Sections 8350.5, 8351, 8353, and 8358.5, Education Code.

**§ 18409. Enrollment into CalWORKs Stage 2 by transfer from another CalWORKs agency.**

(a) A family is transferred into Stage 2 from a county welfare department's Stage 1 program or another contractor's Stage 2 program when the following information is obtained by the receiving contractor from the transferring agency:

(1) The parent's(s) full name(s), address(es), and telephone number(s);

(2) The names and birth dates of all children under the age of 18 living with the family, regardless of whether they are served in the CalWORKs program;

(3) The number of hours of child care needed each day for each child;

(4) The names of other family members in the household who are related by blood, marriage, or adoption;

(5) The reason for needing child care services;

(6) Family size and adjusted monthly income;

(7) Employment or training information for parent(s) including name and address of employer(s) or training institutions(s) and days and hours of employment or training;

(8) Rate of payment; and

(9) The name, address, and telephone number of the child care provider.

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

1       (b) The transfer process specified in Subsection (a) is not required when a family is  
2 transferring from another CalWORKs Stage 2 contract with the same contractor.

3       (c) Once the receiving contractor obtains the information contained in Subsection (a) and  
4 determines that the information is complete, the receiving contractor shall:

5       (1) Assume responsibility for reimbursing the provider for the child care services provided;  
6 and

7       (2) Send or otherwise provide a notice to the family documenting the information and  
8 requiring that the family certify by signature that the information is accurate. Such certification  
9 shall comply with the timelines established by the contractor's policies and procedures. The  
10 contractor shall notify the family of the timeframe by which the certification must be returned,  
11 and that notwithstanding Section 18408(a), child care will be terminated, pursuant to Section  
12 18419, if the certification is not received within that timeframe.

13       (3) If the family indicates that the information obtained by the receiving contractor pursuant  
14 to Subsection (a) is inaccurate or there has been a change, the new Stage 2 contractor shall  
15 update the information pursuant to Section 18410(b).

16       (d) When the contractor is informed by the California Department of Education that all Stage  
17 2 funds have been allocated for a given fiscal year and contracts will no longer be augmented  
18 during the fiscal year, the Stage 2 contractor shall not accept transfers from another CalWORKs  
19 agency if doing so would result in over enrollment by the receiving Stage 2 contractor.

20       (e) If at any time during the fiscal year the contractor believes that accepting additional  
21 transfers would result in over enrollment, the contractor shall notify the California Department of  
22 Education.

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

(f) The contractor shall not establish a waiting list for Stage 2.

Note: Authority cited: Section 8263, Education Code. Reference: Sections 8350.5, 8351, 8353, and 8358.5, Education Code.

**§ 18409.5. Enrollment into CalWORKs Stage 2 when not transferring from another CalWORKs agency.**

(a) When a family who is not being transferred from a county welfare department's Stage 1 program or another contractor's Stage 2 program requests CalWORKs Stage 2 child care services, an application for services must be completed containing the following information and supporting documentation:

(1) The parent's(s) full name(s), address(es) and telephone number(s);

(2) The names and birth dates of all children under the age of 18 in the family, regardless of whether they are served in the CalWORKs program;

(3) The number of hours of child care needed each day for each child;

(4) The names of other family members in the household related by blood, marriage, or adoption;

(5) The reason for needing child care services;

(6) Family size and monthly adjusted income;

(7) Employment or training information for the parent(s) including name and address of employer(s) or training institutions(s) and days and hours of employment or training;

(8) Rate of payment;

(9) The name, address, and telephone number of the child care provider; and

(10) The parent(s) signature and date of the signature.

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

(b) Once the application has been submitted, the signature of the contractor or the contractor's employee who is authorized to certify the eligibility of the family must be obtained before the contractor assumes responsibility for reimbursing the provider for the child care services provided. Child care services received prior to the date of certification shall not be reimbursed.

(c) When the contractor is informed by the California Department of Education that all Stage 2 funds have been allocated for a given fiscal year and contracts will no longer be augmented during the fiscal year, the Stage 2 contractor shall not accept any new families if doing so would result in over enrollment and may refer any otherwise eligible family to the county welfare department Stage 1 program.

(d) If at any time during the fiscal year the contractor believes that accepting additional new families would result in over enrollment, the contractor shall notify the California Department of Education.

(e) The contractor shall not establish a waiting list for Stage 2.

Note: Authority cited: Section 8263, Education Code. Reference: Sections 8350.5, 8353, and 8358.5, Education Code.

**§ 18410. Contractor Responsibilities for Maintaining Family Eligibility.**

(a) At the time of certification and recertification, a family shall be informed of its responsibility to notify the contractor within five calendar days of any changes in family income, family size, or need for child care services.

(b) The contractor shall update the family's application within 30 days after notification by the family of a change in family income, family size, or need. When updating the family's

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

1 application, the contractor shall make every effort to maximize convenience for the parent and  
2 avoid requiring the parent to take time off from work or a work activity.

3 (c) Notwithstanding Subsection (b), all families shall be recertified for eligibility and need at  
4 intervals not to exceed twelve (12) months.

5 (d) If a family no longer meets the requirements specified in Sections 18406 and 18407 and  
6 the contractor receives a referral for services pursuant to Chapter 19, Section 18092, the family  
7 must be transferred to a non-CalWORKs alternative payment program contractor as soon as  
8 possible.

9 (e) When a former CalWORKs cash aid recipient or a diversion family times out, the family  
10 is to be transferred to CalWORKs Stage 3 effective the first day of the following month. If there  
11 are no funds available in a CalWORKs Stage 3 program or another subsidized child care  
12 program, the contractor shall terminate child care pursuant to Section 18419.

13 Note: Authority cited: Sections 8261 and 8263, Education Code. Reference: Section 8353,  
14 Education Code.

15 **§ 18411. Eligible Providers.**

16 (a) The family has the right to select its child care provider. Licensed child care centers,  
17 licensed family homes, and child care exempt from licensure are valid parental choices of care  
18 for all families receiving Stage 2 child care.

19 (b) If child care is funded with state funds, a provider shall not be reimbursed for child care  
20 services that include religious instruction or worship.

21 (c) The child care provider shall meet all of the following requirements:

22 (1) Have a child care license or be exempt from child care licensing requirements, as

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

specified in Title 22, California Code of Regulations, Sections 101158 and 102358.

(2) A license-exempt provider must:

(A) Be 18 years old or older,

(B) Meet or be exempt from Health and Safety Self-Certification requirements; and

(C) Apply for or be registered for Trustline or be exempt from Trustline Registry, pursuant to Health and Safety Code section 1596.605(a).

(d) A contractor may develop a policy for in-home license-exempt care requiring a minimum number of children to ensure the provider receives a payment equivalent to the minimum wage.

(e) The family's choice for a child care provider(s) must meet the following requirements:

(1) The child care provider's hours of operation meet the family's needs for child care;

(2) The child care provider ensures that each child's attendance is recorded for payment purposes; and

(3) Adult supervision is maintained at all times when children are in attendance.

Note: Authority cited: Sections 8261, 8263, and 8269, Education Code. Reference: Sections 8208.1, 8352, 8353, and 8356, Education Code; and Sections 1596.605(a) and 1596.792, Health and Safety Code.

**Article 3. Requirements for Family Data File**

**§ 18412. Family Data File.**

(a) The contractor shall establish and maintain a family data file for each family receiving child care services in accordance with regulations contained in Chapter 19, Section 18081 (a),

(b)(1)-(5), (d), and (e).

(b) For families that transfer from a Stage 1 or another Stage 2 agency, the receiving



CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

1 contractor shall establish the family data file documentation pursuant to Subsection (a) within six  
2 months of the date of the transfer.

3 Note: Authority cited: Sections 8261, 8261.5, 8263, and 8269, Education Code. Reference:  
4 Sections 8353 and 8358.5, Education Code.

5  
6 **Article 4. Provider Payments and Parent Fees**

7 **§ 18413. Provider Payments.**

8 (a) The contractor shall pay each provider no more than the provider charges nonsubsidized  
9 families and not to exceed 1.5 standard deviations above the mean cost of care for that region  
10 established by the most recent regional market rate survey. For providers that serve only  
11 subsidized children, the contractor shall pay a rate that is not to exceed 1.5 standard deviations  
12 above the mean market rate established by the most recent regional market rate survey. When  
13 there are no more than two child care providers in the region providing the type of care needed  
14 by the family, the contractor is not bound by the maximum payment rate for that region.

15 (b) The contractor shall calculate the payment for child care on a monthly, weekly, daily, or  
16 hourly basis depending on the family's needs and the contractual terms used by the provider to  
17 charge nonsubsidized families for the same service. The payment basis shall not be calculated  
18 for the sole purpose of financially benefiting the provider.

19 (c) Reimbursable hours of care shall include:

20 (1) Time necessary for the parent to travel between his/her work or work activity and the  
21 child care provider;

22 (2) Time that a child is absent when the contractual terms used by the provider for services to

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

nonsubsidized families require payment for such absences; and

(3) Time that care is provided by another eligible provider when the child is ill or when the usual provider of care has a paid holiday at the time that the parent must work or attend a work activity.

(d) Contractors shall adopt a policy governing absences that include reasonable limitations for reimbursement purposes.

(e) The contractor shall pay registration fees charged by child care providers, as long as these fees are the same as those charged to nonsubsidized families for the same purpose and the registration fee together with the provider payment do not exceed the maximum payment rate.

Note: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8353 and 8357, Education Code.

**§ 18414. Parent Fees and Co-payments.**

(a) Except as otherwise provided in this Article, contractors shall apply the regulations contained in Chapter 19, Subchapter 3, Article 5 (commencing with Section 18108, except for Sections 18110, 18111, and 18114 (b)).

(b) If a parent chooses a provider with a usual and customary rate exceeding 1.5 standard deviations above the mean market rate for the type of care provided, the parent may receive services from that provider, in which case the parent is responsible for the difference between the maximum payment rate and the provider's rate.

Note: Authority cited: Sections 8263 and 8269, Education Code. Reference: Sections 8353 and 8357, Education Code.

**Article 5. Program Policies**

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

**§ 18415. Contractor Responsibilities.**

(a) The contractor shall comply with Chapter 19, Subchapter 10, Article 2 (commencing with Section 18221, except for Section 18224(a)(2)).

(b) The contractor shall provide an application to all families requesting CalWORKs Stage 2 child care services.

(c) The contractor shall take action on any application submitted for CalWORKs Stage 2 child care services within 30 calendar days starting with the first day after the filing of the application.

(d) The contractor shall assist parents in choosing child care services by providing parents with a referral to the local resource and referral agency. The contractor shall inform parents of policies developed pursuant to Section 18413(d).

(e) The contractor shall not require the family or the provider to furnish any documentation previously provided to a county welfare department or an alternative payment program within the one year prior to application, unless the documentation is absent from the existing file and the documentation affects the eligibility for child care services.

(f) The contractor shall permit the review of the family data file by the child's parent(s) upon request and at reasonable times and places. The family data file may be reviewed by a representative of the parent if the parent provides written authorization for the review. The use or disclosure of all information pertaining to the child and his/her family shall be restricted to purposes directly connected with the administration of the program.

Note: Authority cited: Section 8261, Education Code. Reference: Sections 8353 and 8358.5, Education Code.

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

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**Article 6. Data Reporting**

**§ 18416. Data Reporting**

The contractor shall submit statistical, cost, and program data to the California Department of Education by the date and in the format specified in the California Department of Education's request.

Note: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8353, 8357, and 8358.5, Education Code.

**Article 7. Program Quality**

**§ 18417. Quality.**

The contractor shall adhere to the regulations contained in Chapter 19, Sections 18271, 18274, 18277, and 18279.

Note: Authority cited: Section 8261, Education Code. Reference: Sections 8203 and 8353, Education Code.

**Article 8. Due Process**

**§ 18418. Parental Appeals.**

The contractor shall adhere to the regulations contained in Chapter 19, Sections 18120, 18121, and 18122.

Note: Authority cited: Section 8261, Education Code. Reference: Sections 8353 and 8358.5, Education Code.

**§ 18419. Notice of Action Requirements.**

The contractor shall comply with the regulations contained in Chapter 19, Sections 18094, 18095, 18118, and 18119(a). When a notice of action is to be issued, the contractor shall mail or

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

1 personally deliver the notice of action to the parents. If the notice of action is personally  
2 delivered, the effective day of the intended action shall be no less than 14 calendar days from the  
3 date the notice was delivered. If the notice of action is mailed, the effective date of the intended  
4 action shall be no less than 19 calendar days from the date the notice was mailed.

5 Note: Authority cited: Section 8261 and 8263, Education Code. Reference: Sections 8353 and  
6 8358.5, Education Code.

7 **Subchapter 3. CalWORKs Stage 3 Child Care Program**

8 **Article 1. General Provisions**

9 **§ 18420. Scope of Subchapter.**

10 (a) The provisions contained in this Subchapter shall only apply to contractors authorized to  
11 establish, maintain, or operate alternative payment programs for CalWORKs Stage 3 Child Care  
12 Programs as defined in Education Code section 8354.

13 (b) Except as otherwise provided in this subchapter, contractors funded to establish,  
14 maintain, or operate alternative payment programs for CalWORKs Stage 3 child care programs  
15 shall also comply with regulations contained in Chapter 19, Subchapter 1 (commencing with  
16 Section 17906), Subchapter 2 (commencing with Section 18012, except for Section 18017 if  
17 child care is paid for utilizing federal funds), and Subchapter 15 (commencing with Section  
18 18300).

19 (c) Contractors administering Stage 3 programs in counties where there are multiple  
20 contractors shall coordinate services and cooperate to ensure all eligible families receive and  
21 continue to receive services. Contractors may coordinate across county boundaries so that  
22 eligible families living in the county, employed in the county, or receiving child care in the

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

1 county receive and continue to receive services.

2 Note: Authority cited: Sections 8261 8263, and 8269, Education Code. Reference: Section  
3 8354, Education Code.

4 **Article 2. Requirements and Procedures for Receiving**

5 **CalWORKs Stage 3 Services**

6 **§ 18421. Family Eligibility.**

7 (a) A family is eligible to receive CalWORKs Stage 3 child care services if all of the  
8 following conditions are met:

9 (1) The family is and remains income eligible. A family is income eligible if the family's  
10 adjusted monthly income based upon the family size is at or below 75% of the state median  
11 income. Adjusted monthly income is the total countable income received by members of the  
12 family included in the family size determination minus verified child support payments paid by  
13 the parent whose child is receiving child care services. Except for child support payments paid  
14 by the parent, monthly income shall not be adjusted because of voluntary or involuntary  
15 deductions.

16 (A) When income fluctuations occur, the adjusted monthly income shall be computed by  
17 averaging the total adjusted monthly income received during the previous 12 months.

18 (B) For families that transfer from either Stage 1 or another Stage 2 contractor, the 12-month  
19 period shall be the 12 months immediately preceding the transfer.

20 (C) For all other families, the 12-month period shall be the 12 months immediately  
21 preceding the month of recertification.

22 (D) Total countable income does not include the following:

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

- 1 (i) Earnings of a child under the age of 18 years;
- 2 (ii) Loans, grants, and scholarships obtained under conditions that preclude their use for
- 3 current living costs;
- 4 (iii) Grants or loans to students for educational purposes made or insured by a state or federal
- 5 agency;
- 6 (iv) Allowances received for uniforms or other work required clothing, food, or shelter;
- 7 (v) Income that is used for business expenses for self-employed family members; or
- 8 (vi) The income of a recipient of federal supplemental security income and state
- 9 supplemental program (SSI/SSP) benefits;
- 10 (2) The adult or minor teen parent is responsible for the care of the child needing child care;
- 11 and
- 12 (3) The adult or minor teen parent is:
- 13 (A) A former CalWORKs cash aid recipient and is in his/her 24<sup>th</sup> month of eligibility for
- 14 CalWORKs Stage 1 and/or 2 after leaving CalWORKs cash aid, or
- 15 (B) A diversion services recipient and is in his/her 24<sup>th</sup> month of eligibility for CalWORKs
- 16 Stage 1 and/or 2 child care.
- 17 (b) If child care is reimbursed with state funds, the parent(s) and any other adult whose
- 18 income is counted towards Stage 3 eligibility must each meet one of the following requirements:
- 19 (1) Be employed. If the parent(s) works in the home, the nature of the work must preclude
- 20 the supervision of the parent's children;
- 21 (2) Be seeking employment, but not to exceed sixty working days in the fiscal year;
- 22 (3) Be participating in a job training and education program leading directly to a

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

1 recognized trade, paraprofession, or profession;

2 (4) Be participating in job retention services as approved by the county welfare department;

3 or

4 (5) Be incapacitated.

5 (c) If child care is reimbursed with federal funds:

6 (1) The parent must meet one of the following requirements:

7 (A) Be employed. If the parent works in the home, the nature of the work must preclude the  
8 supervision of the parent's children;

9 (B) Be seeking employment, but not to exceed sixty working days in the fiscal year;

10 (C) Be participating in a job training and education program leading directly to a  
11 recognized trade, paraprofession, or profession; or

12 (D) Be participating in job retention services as approved by the county welfare department.

13 (2) Any other adult whose income is counted towards Stage 3 eligibility must meet one of the  
14 requirements contained in Subsection (c)(1) or be incapacitated.

15 Note: Authority cited: Section 8263, Education Code. Reference: Sections 8350.5 and 8354,  
16 Education Code; Section 11323.2, Welfare and Institutions Code.

17 **§ 18422. Child Eligibility.**

18 (a) A child living in the household of an eligible family pursuant to Section 18421 may  
19 receive CalWORKs Stage 3 child care services if she/he is:

20 (1) A son or daughter of the eligible family;

21 (2) Receiving foster care benefits, federal Supplemental Security Income (SSI), or State  
22 Supplemental Program (SSP) benefits; or



CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

(3) The responsibility of the adult to support and for whom the lack of child care would result in the adult not being able to work or participate in a work activity.

(b) If child care is being reimbursed with state funds, the child must:

(1) Be under 14 years of age; or

(2) Be under 22 years of age if the child has exceptional needs pursuant to Education Code section 8208(1) and is physically or mentally incapable of caring for him/herself as determined by a legally qualified professional.

(c) If child care is being reimbursed with federal funds, the child must:

(1) Be under 13 years of age; or

(2) Be under 19 years of age if the child is physically or mentally incapable of caring for him/herself as determined by a legally qualified professional.

(d) When a child's residence alternates between the homes of separated or divorced parents, eligibility, need, and fees should be determined separately for each household in which the child is residing during the time child care services are needed.

Note: Authority cited: Section 8263, Education Code. Reference: Sections 8350, 8350.5, and 8354, Education Code; Section 11323.2, Welfare and Institutions Code.

**§ 18423. Eligibility Duration.**

After initial enrollment into a Stage 3 program, child care services will be continued as long as the child meets the requirements of Section 18422 and:

(a) The family continues to meet eligibility requirements pursuant to Section 18421; or

(b) The contractor has received a referral for child protective services pursuant to Chapter 19, Section 18092; or

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

1 (c) If being reimbursed by state funds, the family is income eligible and the child has a  
2 medical or psychiatric special need that cannot be met without the provision of child care  
3 services as documented in the family data file pursuant to Chapter 19, Section 18089.

4 Note: Authority cited: Section 8263, Education Code. Reference: Sections 8350, 8350.5, and  
5 8354, Education Code.

6 **§ 18424. Enrollment into CalWORKs Stage 3 by transfer from another CalWORKs**  
7 **agency.**

8 (a) A family is transferred into Stage 3 from a county welfare department's Stage 1 program  
9 or another contractor's Stage 2 or Stage 3 program when the following information is obtained  
10 by the receiving contractor:

11 (1) The parent's(s) full name(s), address(es), and telephone number(s);

12 (2) The names and birth dates of all children under the age of 18 living with the family,  
13 regardless of whether they are served in the CalWORKs program;

14 (3) The number of hours of child care needed each day for each child;

15 (4) The names of other family members in the household who are related by blood, marriage,  
16 or adoption;

17 (5) The reason for needing child care services;

18 (6) Family size and adjusted monthly income;

19 (7) Employment or training information for parent(s) including name and address of  
20 employer(s) or training institutions(s) and days and hours of employment or training;

21 (8) Rate of payment; and

22 (9) The name, address, and telephone number of the child care provider.

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

1 (b) The transfer process specified in Subsection (a) is not required when a family is  
2 transferring from another CalWORKs Stage 2 or Stage 3 contract with the same contractor.

3 (c) Once the receiving contractor obtains the information contained in Subsection (a) and  
4 determines that the information is complete, the receiving contractor shall:

5 (1) Assume responsibility for reimbursing the provider for the child care services provided  
6 effective the first of the month after the family has timed out of Stage 1 or Stage 2; and

7 (2) Send or otherwise provide a notice to the family documenting the information and  
8 requiring that the family certify by signature that the information is accurate. Such certification  
9 shall comply with the timelines established by the contractor's policies and procedures. The  
10 contractor shall notify the family of the timeframe by which the certification must be returned,  
11 and that child care will be terminated, pursuant to Section 18434, if the certification is not  
12 received within that timeframe.

13 (3) If the family indicates that the information obtained by the receiving contractor pursuant  
14 to Subsection (a) is inaccurate or there has been a change, the new Stage 3 contractor shall  
15 update the information pursuant to Section 18425(b).

16 (d) The contractor shall enroll eligible families into Stage 3 as they time out without  
17 regard to prioritization until the notification from the California of Education pursuant to  
18 subsection (e) below is received.

19 (e) If at any time during the fiscal year the contractor believes that accepting eligible families  
20 into Stage 3 as they time out would result in over enrollment, the contractor shall notify the  
21 California Department of Education.

22 (f) Notwithstanding Chapter 19, Section 18225, when a contractor is informed by the

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

1 California Department of Education that all Stage 3 funds have been allocated for a given fiscal  
2 year and contracts will no longer be augmented during that fiscal year, the contractor shall:

3 (1) Review the Stage 1 and 2 caseload designated to transfer into the contractor's Stage 3  
4 contract each month for the remainder of the current fiscal year. The contractor shall determine  
5 if the current fiscal year Stage 3 funds available are sufficient to continue child care for all  
6 families that will time out of Stage 1 and 2 services each month of the current fiscal year.

7 (2) Continue to enroll families without regard to prioritization until the specific month that  
8 funding is insufficient to enroll all families that have timed out of Stage 1 and 2 the previous  
9 month.

10 (3) Upon determination that funding is insufficient to provide services to all families that will  
11 time out in a specific month, enroll families until all Stage 3 funds are fully utilized, with priority  
12 given to families with the lowest adjusted monthly income in relation to family size in  
13 accordance with the family fee schedule.

14 (4) Not establish a waiting list for CalWORKs Stage 3 of otherwise eligible families when  
15 there are insufficient funds pursuant to this Section.

16 (g) Subsequently, if additional Stage 3 funding becomes available due to attrition, the  
17 families that have timed out in the month that funding becomes available shall be enrolled with  
18 priority given to families with the lowest adjusted monthly income in relation to family size in  
19 accordance with the family fee schedule.

20 (h) The contractor shall mail or personally deliver a completed notice of action to the  
21 parent(s) pursuant to Section 18434 when services are to be terminated due to insufficient funds.

22 Note: Authority cited: Section 8263, Education Code. Reference: Sections 8350.5 and 8354,

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

1 Education Code.

2 **§ 18425. Contractor Responsibilities for Maintaining Family Eligibility.**

3 (a) At the time of certification and recertification, a family shall be informed of its  
4 responsibility to notify the contractor within five calendar days of any changes in family income,  
5 family size, or need for child care services.

6 (b) The contractor shall update the family's application within 30 days after notification by  
7 the family of a change in family income, family size, or need. When updating the family's  
8 application, the contractor shall make every effort to maximize convenience for the parent and  
9 avoid requiring the parent to take time off from work or a work activity.

10 (c) Notwithstanding Subsection (b), all families shall be recertified for eligibility and need as  
11 follows:

12 (1) Families receiving care where the need is child protective services shall be recertified at  
13 least once every 6 months;

14 (2) All other families shall be recertified at intervals not to exceed 12 months.

15 (d) If the California Department of Education notifies the contractor that funds are not  
16 available to serve the existing Stage 3 caseload and it is necessary to displace families, families  
17 shall be displaced in reverse order of enrollment priority based on income levels pursuant to  
18 Education Code section 8263(b)(2). When two or more families are in the same priority in  
19 relation to income, the family that has received care in Stage 3 for the shortest period of time  
20 shall have higher priority.

21 Note: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8350.5  
22 and 8354, Education Code.

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

**§ 18426. Eligible Providers.**

(a) The family has the right to select its child care provider. Licensed child care centers, licensed family homes, and child care exempt from licensure are valid parental choices of care for all families receiving Stage 3 child care.

(b) If child care is funded with state funds, a provider shall not be reimbursed for child care services that includes religious instruction or worship.

(c) The child care provider shall meet all of the following requirements:

(1) Have a child care license or be exempt from child care licensing requirements, as specified in Title 22, California Code of Regulations, Sections 101158 and 102358.

(2) A license-exempt provider must:

(A) Be 18 years old or older,

(B) Meet or be exempt from Health and Safety Self-Certification requirements; and

(C) Apply for or be registered for Trustline or be exempt from Trustline Registry, pursuant to Health and Safety Code section 1596.605(a).

(d) A contractor may develop a policy for in-home license-exempt care requiring a minimum number of children to ensure the provider receives a payment equivalent to the minimum wage.

(e) The family's choice for a child care provider must meet the following requirements:

(1) The child care provider's hours of operation meet the family's needs for child care;

(2) The child care provider ensures that each child's attendance is recorded for payment purposes; and

(3) Adult supervision is maintained at all times when children are in attendance.

Note: Authority cited: Sections 8261, 8263, and 8269, Education Code. Reference: Sections

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

8208.1, 8354 and 8356, Education Code.

**Article 3. Requirements for Family Data File**

**§ 18427. Family Data File.**

(a) The contractor shall establish and maintain a family data file for each family receiving child care services in accordance with regulations contained in Chapter 19, Section 18081(a), (b)(1)-(5), (d), and (e).

(b) For families that transfer from a Stage 1, Stage 2, or another Stage 3 agency, the receiving contractor shall establish the family data file documentation pursuant to Subsection (a) within six months of the date of the transfer.

Note: Authority cited: Sections 8261, 8261.5, 8263, and 8269, Education Code. Reference: Sections 8354 and 8358.5, Education Code.

**Article 4. Provider Payments and Parent Fees**

**§ 18428. Provider Payments.**

(a) The contractor shall pay each provider no more than the provider charges nonsubsidized families and not to exceed 1.5 standard deviations above the mean cost of care for that region established by the most recent regional market rate survey. For providers that serve only subsidized children, the contractor shall pay a rate that is not to exceed 1.5 standard deviations above the mean market rate established by the most recent regional market rate survey. When there are no more than two child care providers in the region providing of the type of care needed by the family, the contractor is not bound by the maximum payment rate for that region.

(b) The contractor shall calculate the payment for child care on a monthly, weekly, daily, or hourly basis depending on the family's needs and the contractual terms used by the provider to

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

1 charge nonsubsidized families for the same service. The payment basis shall not be calculated  
2 for the sole purpose of financially benefiting the provider.

3 (c) Reimbursable hours of care shall include:

4 (1) Time necessary for the parent to travel between his/her work or work activity and the  
5 child care provider;

6 (2) Time that a child is absent when the contractual terms used by the provider for services to  
7 nonsubsidized families require payment for such absences; and

8 (3) Time that care is provided by another eligible provider when the child is ill or when the  
9 usual provider of care has a paid holiday at the time that the parent must work or attend a work  
10 activity.

11 (d) Contractors shall adopt a policy governing absences that include reasonable limitations  
12 for reimbursement purposes.

13 (e) The contractor shall pay registration fees charged by child care providers, as long as these  
14 fees are the same as those charged to nonsubsidized families for the same purpose and the  
15 registration fees together with the provider payment do not exceed the maximum payment rate.

16 Note: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8354 and  
17 8357, Education Code.

18 **§ 18429. Parent Fees and Co-payments.**

19 (a) Except as otherwise provided in this Article, contractors shall apply the regulations  
20 contained in Chapter 19, Subchapter 3, Article 5 (commencing with Section 18108, except for  
21 Sections 18110, 18111, and 18114 (b)).

22 (b) If a parent chooses a provider with a usual and customary rate exceeding 1.5 standard



CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

1 deviations above the mean market rate for the type of care provided, the parent may receive  
2 services from that provider, in which case the parent is responsible for the difference between the  
3 maximum payment rate and the provider's rate.

4 Note: Authority cited: Sections 8263 and 8369, Education Code. Reference: Sections 8354 and  
5 8357, Education Code.

**Article 5. Program Policies**

**§ 18430. Contractor Responsibilities.**

9 (a) The contractor shall comply with Chapter 19, Subchapter 10, Article 2 (commencing with  
10 Section 18221, except for Section 18224(a)(2)).

11 (b) The contractor shall assist parents in choosing a child care provider by providing parents  
12 with a referral to the local resource and referral agency. The contractor shall inform parents of  
13 policies developed pursuant to Section 18428(d).

14 (c) The contractor shall not require the family or the provider to furnish any documentation  
15 previously provided to a county welfare department or an alternative payment program within  
16 the one year prior to application, unless the documentation is absent from the existing file and  
17 the documentation affects the eligibility for child care services.

18 (d) The contractor shall permit the review of the family data file by the child's parent(s) upon  
19 request and at reasonable times and places. The family data file may be reviewed by a  
20 representative of the parent if the parent provides written authorization for the review. The use  
21 or disclosure of all information pertaining to the child and his/her family shall be restricted to  
22 purposes directly connected with the administration of the program.

23 Note: Authority cited: Section 8261, Education Code. Reference: Sections 8354 and 8358.5,  
24 Education Code.

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

**Article 6. Data Reporting**

**§ 18431. Data Reporting.**

The contractor shall submit statistical, cost, and program data to the California Department of Education by the date and in the format specified in the California Department of Education's request.

Note: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8354, 8357, and 8358.5, Education Code.

**Article 7. Program Quality**

**§ 18432. Quality.**

The contractor shall adhere to the regulations contained in Chapter 19, Sections 18271, 18274, 18277, and 18279.

Note: Authority cited: Section 8261, Education Code. Reference: Sections 8302 and 8354, Education Code.

**Article 8. Due Process**

**§ 18433. Parental Appeals.**

The contractor shall adhere to the regulations contained in Chapter 19, Sections 18120, 18121, and 18122.

Note: Authority cited: Section 8261, Education Code. Reference: Sections 8354 and 8358.5, Education Code.

**§18434. Notice of Action Requirements.**

The contractor shall comply with the regulations contained in Chapter 19, Sections 18094, 18095, 18118, and 18119(a). When a notice of action is to be issued, the contractor shall mail or

CONTINUATION SHEET  
**FOR FILING ADMINISTRATIVE REGULATIONS  
WITH THE SECRETARY OF STATE**  
(Pursuant to Government Code Section 11380.1)

---

1 personally deliver the notice of action to the parents. If the notice of action is personally  
2 delivered, the effective date of the intended action shall be no less than 14 calendar days from the  
3 date the notice was delivered. If the notice of action is mailed, the effective day of the intended  
4 action shall be no less than 19 calendar days from the date the notice was mailed.

5 Note: Authority cited: Sections 8261 and 8263, Education Code. Reference: Sections 8354 and  
6 8358.5, Education Code.